

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOHN MITCHELL,

Petitioner,

- against -

JOHN B. LEMPKE,
Superintendent, Five Points Correctional Facility,

Respondent.
-----X

MAUSKOPF, United States District Judge.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ OCT 14 2009

P.M.
TIME A.M. 9

MEMORANDUM & ORDER

09-CV-03399 (RRM)

By petition dated July 12, 2009, *pro se* Petitioner John Mitchell seeks a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254. Pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the Court has conducted an initial consideration of this petition and, construing Petitioner's submission liberally, grants Petitioner a stay in order that he may pursue post-conviction relief in the New York State courts to exhaust the numerous claims in his petition that have not yet been passed upon by the state courts. Petitioner's request to proceed *in forma pauperis* is granted. The Clerk of Court shall serve a copy of the petition and accompanying documents, as well as this Order, on the District Attorney for Kings County and on the Attorney General of the State of New York.

The Clerk of the Court is directed to administratively close this case until either party moves to restore the matter. Petitioner must notify this Court by letter when he files his state collateral attack. Furthermore, Petitioner must move to reopen these federal *habeas* proceedings within thirty (30) days of his receipt of the state court decision or order that renders his claims fully exhausted. Petitioner is cautioned that he may be barred from reopening his federal *habeas*

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